

SENATE BILL NO. 159

INTRODUCED BY K. REGIER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT CERTAIN PRIVATE NONPROFIT HOSPITALS HAVE PUBLICLY ELECTED BOARDS OF DIRECTORS FOR LICENSURE; PROVIDING FOR THE CONDUCT OF THE ELECTION; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTION 35-2-417, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Licensure of nonprofit hospitals.** (1) Except as provided in subsection (2), the department may not license a hospital that is owned by a nonprofit corporation exempt from taxation under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), unless the nonprofit corporation's articles of incorporation or bylaws are filed with the secretary of state pursuant to 35-2-119 and specify that the hospital must have a five-member board of directors publicly elected pursuant to [section 2].

- (2) This section does not apply to a nonprofit hospital:
 - (a) established under a hospital district pursuant to Title 7, chapter 34, part 21;
 - (b) established by a county under Title 7, chapter 34, part 22; or
 - (c) owned by a church.

NEW SECTION. **Section 2. Nonprofit hospital board members elected by district -- terms -- vacancies.** (1) The board of directors of each nonprofit hospital with a publicly elected board of directors as described under [section 1(1)] must be elected as provided in this section.

(2)(a) In the county where the hospital is physically located, the county election administrator shall divide the county into five districts as nearly equal in population as practicable.

(b) One board member must be elected from each district. A board member for a district must be a qualified elector residing in the district.

- (3) Each board member from each district must be elected on a countywide basis.
- (4) The election must be conducted on a partisan basis.

(5) Except as otherwise provided in this section, a candidate for a hospital board member is subject to

1 all provisions of this title that apply to a partisan candidate for a county partisan office and the provisions of this
 2 title applicable to the conduct of an election for a county partisan office apply to the election of a hospital board
 3 member pursuant to this section.

4 (6) (a) An election for a hospital board member may be cancelled if there is no more than one candidate
 5 for the position.

6 (b) If there is only one candidate for a position, the candidate is nominated or elected by acclamation.

7 (c) If there is no regular or declared write-in candidate for a board member position at the general
 8 election, the position must be considered vacant and filled as provided in subsection (9).

9 (7) The term of an appointed member must be the same as if the member was elected.

10 (8) At the first election of a hospital board pursuant to this section, two members must be elected for
 11 two-year terms and three members must be elected for four-year terms. At each subsequent election, each
 12 member must be elected to a four-year term. Each term shall begin on January 1 after the general election.

13 (9) (a) A vacancy on the board must be filled by a qualified elector from the district for which the vacancy
 14 occurred and be selected by the other members of the board.

15 (b) A vacancy occurs if the member:

16 (i) ceases to be a qualified elector of the district;

17 (ii) resigns;

18 (iii) dies;

19 (iv) ceases to discharge the duty of the office for a period of 6 consecutive months;

20 (v) is convicted of a felony;

21 (vi) is determined by a court to be mentally incompetent or incapable of discharging the duties of office;

22 or

23 (vii) is recalled pursuant to Title 2, chapter 16, part 6.

24 (10) An election under this section shall be conducted for each board of each nonprofit hospital covered
 25 under [section 1(1)] that is located in the county.

26

27 **Section 3.** Section 35-2-417, MCA, is amended to read:

28 **"35-2-417. Election, designation and appointment of directors.** (1) If the corporation has members,
 29 all the directors except the initial directors must be elected at the first annual meeting of members and at each
 30 annual meeting thereafter unless the articles or bylaws provide some other time or method of election or provide

1 that some of the directors are appointed by some other person or are designated.

2 (2) If Subject to [section 1], if the corporation does not have members, all the directors except the initial
3 directors must be elected, appointed, or designated as provided in the articles or bylaws. If a method of
4 designation or appointment is not set forth in the articles or bylaws, the directors, other than the initial directors,
5 must be elected by the board."

6
7 NEW SECTION. Section 4. Unfunded mandate laws superseded. The provisions of [this act]
8 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

9
10 NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an
11 integral part of Title 50, chapter 5, part 2, and the provisions of Title 50, chapter 5, part 2, apply to [section 1].

12 (2) [Section 2] is intended to be codified as an integral part of Title 13, chapter 1, part 4, and the
13 provisions of Title 13, chapter 1, part 4, apply to [section 2].

14
15 NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured,
16 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

17
18 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2020.

19
20 NEW SECTION. Section 8. Applicability. [This act] applies to hospital licenses granted or renewed
21 on or after [the effective date of this act].

22 - END -